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NATIONAL CAMPAIGN FOR THE REFORM
OF THE OBSCENE PUBLICATIONS ACTS

N C R O P A

FIGHTING SEXUAL CENSORSHIP

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NO/DAW/DP

16th November 1995

The Editor,
"The Guardian",
119 Farringdon Road,
London,
EC1R 3ER.

Dear Sir,

The National Heritage Secretary's action in proscribing the Swedish XXXTV satellite channel in this country, under the provisions of the UK Broadcasting Act 1990, is not only a deplorable violation of UK citizens' rights to 'freedom of expression', supposedly safeguarded by the UK's ratification of both the United Nations Universal Declaration of Human Rights (1948) and the European Convention on Human Rights (1950), but also illegal under European Union law.

In a UK High Court ruling on 23rd April 1993, a case concerning an appeal by Continental TV (the former "Red Hot Dutch" satellite channel) against a similar proscription order, made by former Heritage Secretary Peter Brooke, MP, was referred for judgment to the European Court. More than 2½ years later, a hearing date for those proceedings has still not been fixed, not because of any fault on the part of the European Court, but because of inaction and delay by the British Government, as the Luxembourg Court has confirmed to me.

The British High Court referral was made because it could not decide whether or not the "Red Hot Dutch TV" proscription order was in contravention of the provisions of Articles 2 and 22 of the 1989 European

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Union Council Directive on broadcasting activities (89/552/EEC), which is binding on all Member States. That directive is still in force and has been neither amended or superceded since the 1993 British referral.

Mrs. Bottomley therefore has no right to claim the European Commission's support for her proscriptive UK action against XXXTV and will not have such claim unless and until the European Court finds in the British Government's favour on the "Red Hot Dutch TV" appeal. As any proper study of the full text of the EU directive clearly shows, and bearing in mind the startlingly obvious disparity between the British Government's uniquely archaic view of 'pornography' as being harmful, and that of virtually all other Member States, there is serious doubt that it will do so. Meantime, it is both ethically and legally improper for Mrs. Bottomley to issue any such television banning orders before the European Court has made its final, overriding adjudication.

Yours sincerely,



David Webb,
Honorary Director,
National Campaign for the Reform of the Obscene Publications Acts